

Remarks

In the application, claims 15 through 27 and 29 through 51 are currently pending. No claims have been allowed.

The Final Office Action dated July 16, 2008, has been carefully considered. Claims 27 and 28 are objected to as duplicates of one another. Claims 1 through 13 and 15 through 52 are rejected under 35 U.S.C. § 102(e) as anticipated by U.S. Patent 6,757,270 ("Kumar"). (The Office Action actually says that claims 1 through 14 and 16 through 52 are rejected as anticipated by Kumar, but the above listing is what was clearly meant.)

Amendments to the Claims

Claims 1 through 13 and 52 are cancelled. To expedite prosecution, claim 28 is cancelled without prejudice. Claims 15, 19, 24 through 26, 33, 42 through 44, and 48 are amended for the sake of clarity.

No new matter is introduced by these amendments.

The § 102(e) Rejection

The Applicant respectfully submits that Kumar does not anticipate the pending claims, as currently amended.

Kumar teaches a network-initiated handoff of data communications traffic from one cell to another. (Generally, see Kumar, column 15, line 17, through column 16, line 20, as pointed out by the Examiner.) In a typical scenario, a mobile station is receiving data communications services from a "serving" cell (to use the terminology of the presently pending claims). The mobile station discovers that the signal strength of a "target" cell is stronger than the signal strength of the current serving cell. The mobile station informs a base site controller of this fact, and the base site controller tells the target cell to take over the task of providing data communications services to the mobile station. After a short hand-off period, where flow control can be used to ensure that data are not lost, the mobile station begins to receive its data communications services from the target cell.

There is nothing in Kumar, however, that discusses the case where the *target* cell cannot (for any reason) accept the handoff. Kumar does discuss the case where the *serving* cell will become unavailable (for example, when the mobile station is moving beyond the range of the serving cell), and thus the mobile station must begin to communicate with a different cell. (See Kumar, column 15, lines 17 through 32, as pointed out by the Examiner.) However, this is very different from the case where the mobile station is told that its *target* cell is not available.

This aspect of telling the mobile station that a *target* cell is not available is reflected in the following elements of the presently pending independent claims, as currently amended:

- Claim 15: sending an indication to the MS that the target cell is presently unavailable to provide data transmission service to the MS via the forward link of the target cell.
- Claim 33: receiving, by the MS, an indication that the target cell is presently unavailable to provide data transmission service to the MS via the forward link of the target cell.
- Claim 42: a base site controller . . . to send, via the BTS, an indication to the MS that the target cell is presently unavailable to provide data transmission service to the MS via the forward link of the target cell.
- Claim 48: a computer processor . . . to receive, via the transceiver, an indication that the target cell is presently unavailable to provide data transmission service to the MS via the forward link of the target cell.

Because Kumar does not teach sending a “target cell unavailability” message to the mobile station, the applicant submits that the independent claims, as currently amended, are patentable over Kumar. The pending dependent claims include by reference all of the limitations of their antecedent independent claims and so are patentable for at least the same reasons as given above.

Conclusion

This application is considered to be in good and proper form for allowance, and the Applicant requests that the Examiner pass this application on to issue. If, in the opinion of the

Serial Number: 10/728,052

Examiner, a telephone conference would expedite the prosecution of this application, the Examiner is invited to call the Applicant's representative at the number given below.

Please charge any fees that may be due to Deposit Account 502117, Motorola, Inc.

Respectfully submitted,

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